

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 2:13-cv-00047-MR-DLH**

PEGGY HILL and AMY WALKER,

Plaintiffs,

vs.

**BARRY COGGINS and COLLETTE
COGGINS, d/b/a CHEROKEE BEAR
ZOO, and COGGINS & COGGINS,
INC.,**

Defendants.

ORDER

THIS MATTER is before the Court *sua sponte* to order supplemental briefing following a bench trial on September 17 and 18, 2015.

The Court specifically requests that the parties address the following issues in their supplemental briefs:

1. Standing: The parties shall address the issue of whether the Plaintiffs have presented evidence demonstrating that they have the requisite standing to bring this action. The parties particularly shall address the elements of injury in fact and redressability. The evidence as to each Plaintiff shall be addressed separately.

2. Whether the Subject Bears Are In Fact “Grizzlies”: The parties shall address whether the Plaintiffs established by a preponderance of evidence that the subject bears are grizzly bears and thus an endangered species subject to the protections of the Endangered Species Act (ESA). In addressing this issue, the Plaintiffs particularly should explain why the Defendants’ prior “admissions” regarding the subspecies of the bears at issue (such as statements on a website, signs at the zoo, etc.) should be considered on this issue but the Defendants’ testimony regarding their understanding of the bears’ classification (to which the Plaintiffs objected) should not be so considered. Also, the parties should address the appropriate weight to be given Dr. Ramsay’s opinions regarding the subspecies of the bears at issue when he identified eleven (11) subspecies of brown bear but ruled out only two (2) of those subspecies.

3. Interplay between the AWA and the ESA: The parties shall address whether there exists any regulatory overlap between the ESA and the Animal Welfare Act (AWA), and if so what the parameters of that overlap are. This is a question of law, and citations to legal authority (particularly cases) are strongly encouraged..

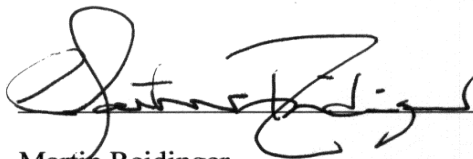
4. “Generally Accepted Animal Husbandry Practices”: The parties shall address: (1) the issue of which standards are incorporated into the ESA

regulation which, when/if applied to captive wildlife, excludes from the definition of “harass” any “generally accepted . . . [a]nimal husbandry practices that meet or exceed the minimum standards for facilities and care under the Animal Welfare Act,” 50 C.F.R. § 17.3, and (2) whether such standards were met in this case.

IT IS, THEREFORE, ORDERED that the Plaintiffs shall file their supplemental brief no later than fourteen (14) days after the transcript of the bench trial proceedings becomes available. The Defendants shall file their supplemental brief no later than fourteen (14) days after the Plaintiffs’ filing. The supplemental briefs should be double spaced, in 14-point font, and shall not exceed twenty-five (25) pages.

IT IS SO ORDERED.

Signed: September 26, 2015


Martin Reidinger
United States District Judge

